

Message Text

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C O N F I D E N T I A L STATE 173025

LIMDIS

E.O. 11652: GDS

TAGS: EAIR, FR, US

SUBJECT: CONCORDE
REF: PARIS 20347

1. REFTTEL SUGGESTS A REVIEW AT THE HIGHEST LEVELS TO
DETERMINE WHETHER FURTHER ACTION SHOULD BE TAKEN TO
INFLUENCE THE SITUATION AT NEW YORK RE CONCORDE LANDING
RIGHTS.

2. TO RECAPITULATE PAST ACTION, THE WHITE HOUSE ANNOUNCED
ON FEBRUARY 16 THAT THIS ADMINISTRATION REAFFIRMED THE
TEST PERIOD FOR THE CONCORDE WITHOUT PREJUDICE TO A LATER
DECISION WHETHER THE AIRCRAFT SHOULD BE GIVEN PERMANENT
LANDING RIGHTS, TAKING INTO ACCOUNT THAT THE PRESIDENT
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"CANNOT DIRECT THE PORT AUTHORITY TO REACH A PARTICULAR
DECISION THAT IS THEIRS ALONE TO DECIDE."

3. ON MARCH 5 THE PRESIDENT SAID IN A RADIO INTERVIEW THAT
IN RESPONSE TO A TELEPHONE REQUEST FROM GISCARD, HE HAD
TALKED WITH GOVERNOR CAREY TO LET HIM KNOW THAT THE FRENCH
PEOPLE CONSIDERED CONCORDE LANDING RIGHTS AT NEW YORK TO

BE A VERY IMPORTANT ISSUE. A LETTER WAS DELIVERED TO THE FRENCH EMBASSY ON MARCH 5, TO WHICH THE PRESIDENT ALLUDED IN SAYING ON THE RADIO THAT HIS OWN STATEMENT TO GISCARD WAS THAT THIS IS NOT AN ISSUE OF COMMERCIAL COMPETITION BUT A QUESTION OF MAINTENANCE OF ENVIRONMENTAL QUALITY, AND

THAT THE SAME NOISE STANDARDS SHOULD APPLY TO ALL COMMERCIAL AIRCRAFT FLYING OVER THE U.S. AT SUBSONIC SPEEDS. HE ALSO REITERATED THAT KENNEDY AIRPORT IS NOT UNDER FEDERAL CONTROL AND THAT HE HAD NO AUTHORITY OVER IT.

4. WE REGRET THAT THE FRENCH FIND "UTTERLY INCOMPREHENSIBLE" THE DISTINCTION BETWEEN FEDERAL CONTROL OVER DULLES AND STATE CONTROL OVER KENNEDY. OUR BEST LEGAL OPINION ON FEDERAL-STATE RELATIONS UNDER THE U.S. CONSTITUTION MAKES CLEAR THE LIMITS OF FEDERAL ACTION. THE SUGGESTION FROM THE FOREIGN MINISTER THAT SINCE THE WHITE HOUSE HAS BEEN UNABLE TO PERSUADE GOVERNOR CAREY TO ACCEPT THE PROPOSAL TO ALLOW A TEST PERIOD FOR CONCORDE AT KENNEDY, PRESSURE SHOULD BE BROUGHT THROUGH WITHHOLDING FEDERAL FUNDS FROM THE STATE, IS NOT WORTHY OF CONSIDERATION.

5. BOTH GOVERNOR CAREY AND MAYOR BEAME HAVE ISSUED PUBLIC STATEMENTS SINCE MARCH 5 EXPRESSING THEIR OPPOSITION TO CONCORDE AT KENNEDY.

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6. THE BRITISH AND FRENCH AIRLINES HAVE PROCEEDED WITH THE LITIGATION THEY HAD INTERRUPTED, TO FORCE THE PORT AUTHORITY TO AGREE TO A TRIAL FLIGHT PERIOD. THE DISTRICT COURT ISSUED SUCH AN ORDER. WHEN THE PORT AUTHORITY APPEALED, THE COURT OF APPEALS ASKED FOR A FEDERAL OPINION, AND THE BRIEF THAT WAS SUBMITTED PROVIDED A BASIS FOR THE CIRCUIT COURT TO REMAND THE CASE FOR A NEW FINDING ON THE QUESTION OF WHETHER THE PORT AUTHORITY HAD ACTED REASONABLY ON ITS THIRTEEN-MONTH DELAY IN TAKING A DECISION ON CONCORDE ENTRY.

7. PRIVATE CONCORDE INTERESTS HERE BELIEVE THAT THE DISTRICT COURT WITHIN THE NEXT WEEK OR SO MAY FIND THAT THE PORT AUTHORITY HAS INDEED ACTED UNREASONABLY AND MAY REISSUE ITS ORDER CALLING FOR A TEST PERIOD OF CONCORDE FLIGHTS AT KENNEDY. AT THE SAME TIME THEY ARE APPREHENSIVE THAT THE PORT AUTHORITY MAY ACT ON THE CIRCUIT COURT ADMONITION THAT IT "FIX REASONABLE NOISE STANDARDS WITH DISPATCH" AND ISSUE A NEW NOISE REGULATION APPLICABLE TO CONCORDE BUT TO NO OTHER AIRCRAFT. WE UNDERSTAND THE PLAINTIFFS WOULD COUNT ON THE NEW JERSEY COMMISSIONERS ON THE PORT AUTHORITY TO BLOCK SUCH A REGULATION, AND THAT

THESE COMMISSIONERS IN FACT BLOCKED ADOPTION OF A PROPOSAL
TO BAN CONCORDE WHEN THE PORT AUTHORITY MET ON JULY 7.

8. EVERY TIME THE ADMINISTRATION HAS BEEN CALLED UPON TO
EXPRESS ITS VIEW ON THE ISSUE IT HAS SUPPORTED CONCORDE
ENTRY AT NEW YORK. THIS HAS BEEN THE CASE IN SEVERAL
PRESIDENTIAL STATEMENTS AND IN THE BRIEF FILED WITH THE
CIRCUIT COURT. WHILE THE BRIEF PRESENTED ARGUMENTS
DIFFERENT FROM THOSE OF THE PLAINTIFFS, IT CAME OUT FIRMLY
IN FAVOR OF A TRIAL PERIOD OF CONCORDE FLIGHTS AT KENNEDY.
THE EMBASSY SHOULD REITERATE THIS RECORD TO THE FRENCH.

9. IT IS CERTAINLY OUR DESIRE TO AVOID SERIOUS POLITICAL
DIFFICULTIES WITH THE FRENCH OVER THIS ISSUE. TO DO THIS,
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WE NEED THE HELP OF THE FRENCH GOVERNMENT IN UNDERSTANDING
THE NATURE OF THE U.S. FEDERAL SYSTEM, THE LIMITS OF
FEDERAL ACTION, THE ENVIRONMENTAL (NOT COMMERCIAL) BASIS
FOR THE PORT AUTHORITY ACTION, AND THE GOOD FAITH EFFORTS
OF THE ADMINISTRATION, UP TO AND INCLUDING THE PRESIDENT.
(FYI ONLY: THE PRESIDENT HAS PERSONALLY ASKED GISCARD FOR
HIS HELP IN PROMOTING FRENCH UNDERSTANDING, AND IN AVOIDING
POLITICAL PROBLEMS. END FYI)

10. WE HAVE BROUGHT YOUR SUGGESTION FOR A FURTHER REVIEW
TO WHITE HOUSE ATTENTION AND IT IS KEEPING CAREFUL WATCH
ON DEVELOPMENTS, TO DETERMINE WHAT FURTHER STEPS WOULD BE
IN ORDER, IN LIGHT OF THE IMPORTANCE OF THIS ISSUE IN OUR
RELATIONS WITH FRANCE. VANCE

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